



*Report
to
The LEGISLATIVE FINANCE COMMITTEE*



Public Education Department
Quick Response Review of Implementation of Indian Education Act
March 28, 2006

Report # 06-04

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March 28, 2006

Veronica Garcia, Secretary
Public Education Department
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Santa Fe, New Mexico 87501-2786

Dear Secretary Garcia,

On behalf of the Legislative Finance Committee (Committee), I am pleased to transmit the report on our review of implementation of the Indian Education Act. The objective of this review was to determine if the 2003 Indian Education Act provisions and resultant Public Education Department (department) implementation activities and uses of the Indian education fund are appropriate to address the Native American achievement gap.

The review team interviewed agency staff, examined Indian education laws, analyzed research, analyzed funding and prepared this report which will be presented to the Committee on March 28, 2006. An exit conference was conducted on March 6, 2006 to discuss the contents of the report with you and your staff.

The department response is expected to be provided at the hearing. The Committee expects a corrective action plan from the department within 30 days from the date of the hearing relating to department processes. Staff will continue to monitor your progress toward implementation of the Act.

We believe that this report addresses issues the Committee asked us to review and hope the Public Education Department will benefit from our efforts. Thank you for your cooperation and assistance.

Sincerely,

A handwritten signature in cursive script, reading "G. Christine Chavez".

G. Christine Chavez
Deputy Director for Performance Audit

GCC:RB/yr

Table of Contents

Page No.

Executive Summary	1
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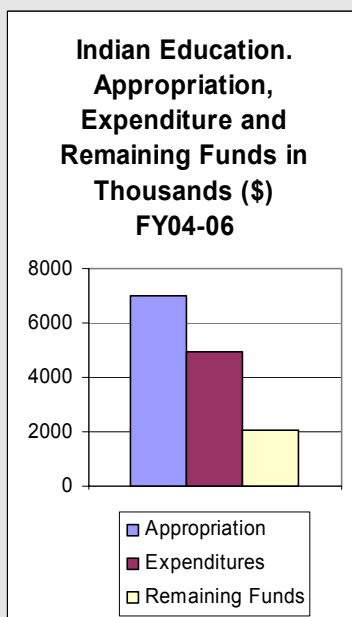
Review Information

Background	4
Objective	4
Procedures	5

Findings, Recommendations

The New Mexico Indian Education Act, the Navajo Sovereignty In Education Act of 2005 and the No Child Left Behind (NCLB) Act	6
The American Indian Achievement Gap in New Mexico and Other States	8
Factors Contributing to the Native American Achievement Gap	9
Research on Improving Academic Performance Among Native American Children	10
Implementation of the Indian Education Act	11
Montana “Indian Education Act for All” Strategy/Model	15
New Mexico Indian Education Summit	15
Adequacy of Native American Representation in the Classroom, on School Boards, and in PED	16
House Memorial 3 and Nichols and Associates Report on Elevating the Status of Indian Education Division	16
Governor’s Request For a Study on the Status of Indian Education in New Mexico	17

Implementation has been slow.



Source PED

Focused programs and resources are needed.

Increased tribal/pueblo/nation input and representation are needed.

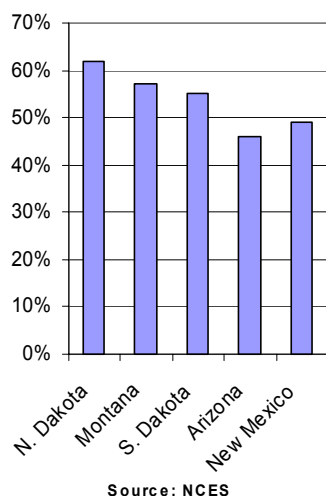
The objective of this review was to determine if the 2003 Indian Education Act provisions and resultant Public Education Department (PED) and Indian Education Division (IED) implementation activities and uses of the Indian Education Fund are appropriate to address the Native American achievement gap. The purposes of the Act are to ensure equitable and culturally relevant learning systems; maintenance of Native languages; and tribal involvement and control over schools.

Major Implementation Findings. The Act is vague, overly ambitious and extremely difficult to implement given the limitations of PED reflected in the following findings:

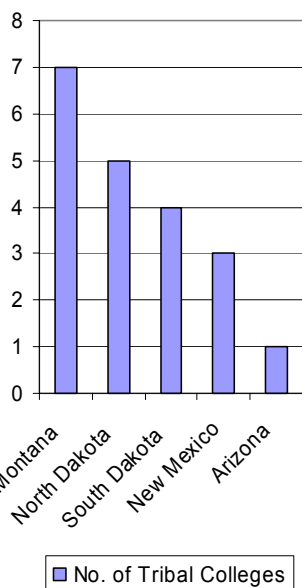
- New Mexico's 22 tribes/pueblos/nations require government to government procedures making implementation of the Act initially complex and slow as evidenced by the pattern of expenditures of the Indian education fund from FY04 to FY06.
- The issues of poverty and low-performing schools serving tribes/pueblos/nations has not been addressed through focused programs and resources on a scale that will have significant impact on closing the Native American achievement gap.
- Research indicates that low achievement of Indian children is largely due to irrelevant (culturally inappropriate) content standards, school organization, instruction and testing.
- The current strategy for developing relevant curricula shifts most responsibility from the PED to school districts and outside contractors and does not provide a blueprint and technical assistance to school districts.
- The PED has not developed a strategy and working relationship to develop the capacity of tribes/pueblo/nations education departments and coordinate efforts.
- There is an abundance of Indian education research and the critical elements of culturally based education provide a blueprint for what schools must do and be held accountable for by the PED.
- Native languages have not been part of the PED bilingual education program nor has an effective alliance between school districts and university teacher preparation programs been facilitated to meet Native language and culturally based education teacher supply needs.
- The New Mexico Indian Education Summit held on December 19, 2005 provided New Mexico tribes/pueblos/nations with a one day forum to present their concerns but no priorities, targets or actions were formally identified. At the Summit the Governor announced his request for a \$500,000 study on the status of Indian education in New Mexico that does not appear

The House Memorial 3 report is key.

American Indian 8th Grade 2005 Reading Proficiency by State



Number of Tribal Colleges by State



Montana developed "Indian Education Act for All"

likely to add to existing research based practices and approaches that should be implemented under the Act.

- The 2005 House Memorial 3 directive to analyze means to elevate the status of the Indian education division with the purpose of enhancing it's authority, funding, scope, staffing, and responsibilities is critical to the effective implementation of the Indian Education Act. The report was not presented in October 2005 to the Legislative Indian Affairs Committee as stipulated.

Other States' Data/Montana Strategy.

- Data comparing New Mexico with other states shows that Montana, North Dakota, and South Dakota have:
 - Higher 8th grade Native American and White reading proficiency levels;
 - Lower percentages of poverty, and English language learners with fewer students per teacher; and
 - More tribal colleges and higher Native American student enrollment.
- Montana accreditation, program and content standards call for inclusion of American Indian culture in all program areas, content and performance standards.
- Montana's two day Indian Education Summit held in October 2004 resulted in specific recommendations and targets to reduce the dropout rate and increase the graduation rates of Indian students.
- Montana Advisory Council on Indian Education constitution and by-laws clearly establishes the authority of the council to oversee implementation of the initiative with all tribes and stakeholders involved.
- Montana's implementation plan framework provides for the distribution of a K-12 curriculum binder, scope and sequence curriculum, model lessons, supplemental resource materials and guide along with monitoring, evaluation, and collection of implementation data for accreditation purposes.

Seven Major Options for Improving the Indian Education Act.

The current language of the Act should be more prescriptive and require the following:

1. New Mexico content standards and tests to include language and cultural competencies relevant to Native American students for the purposes of determining adequate yearly progress under No Child Left Behind (NCLB).
2. Funding Formula Task Force review of the adequacy of at-risk unit values to determine if funding is adequate to assist high poverty Native American impacted school districts in meeting the purposes of the Act and providing comprehensive

The language of the Act should be more prescriptive.

The adequacy of at-risk unit values is in question.

Native languages need to be a part of PED bilingual program.

There is a research based model of culturally based education.

PED needs to disseminate curricula and engage teacher preparation programs.

health/mental health services, supplemental educational programs and fewer students per teacher and educational technology.

3. Increasing the capacity of the PED to provide technical assistance and interventions to tribal education departments, schools districts and schools in implementing culturally based education by redirecting existing funding to hire additional staff with expertise in tribal/pueblo/nation language, culture and education as a component of the bilingual program.
4. Making tribal/pueblo/nations education departments Local Education Agencies (LEA's) eligible for state funding as a foundational step in increasing tribal capacity, involvement and control over the education of their students.
5. Use the critical elements of the culturally based education model identified in the research as a blueprint and guide for the development of a set of accountability measures for implementation of the Act.
6. PED to develop and disseminate an Indian education K-12 curricula binder, scope and sequence curriculum, model lessons, supplemental resource materials and resource guide and hold districts accountable for their use with targets and timelines for improving Native American student retention, achievement, and graduation rates.
7. Establishing an Indian education teacher corps to increase the supply of highly qualified teachers trained in culturally based education by providing accelerated teacher training, certification, endorsement, and professional development programs customized to fit the needs of each tribe/pueblo/nation in the Rural Education Cooperatives and PED regional quality centers as part of the school improvement framework.

Background. The 2003 Legislature enacted the Indian Education Act to address the unique cultural and educational needs of American Indian students and tribes. The central purposes of the Act are to:

- A. Ensure equitable and culturally relevant learning environments, educational opportunities and culturally relevant instructional materials for American Indian students enrolled in public schools;
- B. Ensure maintenance of native languages;
- C. Provide for the study, development and implementation of educational systems that positively affect the educational success of American Indian students; and
- D. Ensure that the Public Education Department (PED) partners with tribes to increase tribal involvement and control over schools and the education of students located in tribal communities.

The Act created an Indian education division and assistant secretary within the PED with a scope of duties to provide:

- Planning, implementation, and evaluation of curricula in Native languages, culture and history in conjunction with native language practitioners and tribal elders;
- Development for selection or implementation of a challenging, sequential, culturally relevant curriculum in kindergarten through sixth grade to prepare American Indian students for pre- and advanced placement course work in grades seven through twelve;
- Agreements with tribes to coordinate technical assistance for public schools that serve American Indian students;
- Support services for the purposes of increasing the number of American Indian teachers and principals; and providing continued professional development for educational assistants, teachers and principals serving American Indian students;
- Curricula in tribal history and government for implementation throughout the state;
- For Native language bilingual programs being part of a school district's professional development plan; and
- A plan to establish a post-secondary investment system for Indian students.

The Act also established a 14 member Indian education advisory council to evaluate, consolidate and coordinate all activities relating to the education of American Indian students. Not all 22 tribes/pueblos/nations are represented. Along with this the Indian education division, in collaboration with the education division of the bureau of Indian affairs and other entities serving American Indian students are required to submit an annual statewide American Indian education status report to all tribes. The statewide status report has not been released.

Last but not least, the Act established an Indian education fund to be administered by the PED who is responsible for the development of procedures and rules for the award of money by warrant of the Department of Finance and Administration. No procedures or rules have been developed by the PED.

Objective. Pursuant to a request of the Legislative Finance Committee, the performance audit team conducted a quick response review to determine if the current Indian Education Act and resultant policies are appropriate to address the Native American achievement gap in New Mexico.

Procedures.

- Determine if the purposes of the Act are being implemented to address the substandard conditions and cultural needs of low performing Native American schools.
- Determine if the staff of Public Education Department, the Indian education division and members of the Indian education advisory council have developed an appropriate strategy.
- Determine if the Indian education division has the staffing and authority needed to provide programming to assist school districts.
- Assess the adequacy of the Indian education fund agency spending plan to address the purposes of the Act.
- Compare New Mexico other states with large Native American populations.

Authority for Review. The Legislative Finance Committee (Committee) has the statutory authority under Section 2-5-3 NMSA 1978 to examine laws governing the finances and operations of departments, agencies and institutions of New Mexico and all of its political subdivisions, the effects of laws on the proper functioning of these governmental units and the policies and costs. The Committee is also authorized to make recommendations for change to the Legislature. In furtherance of its statutory responsibility, the Committee may conduct inquiries into specific transactions affecting the operating policies and cost of governmental units and their compliance with state law.

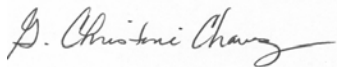
Exit Conference. The contents of this report were discussed with Dr. Veronica Garcia, PED Secretary; Dr. Catherine Cross-Maple, PED Deputy Secretary; Dr. Penny Bird, Assistant Secretary of Indian Education; and Dr. James Hollaway, Assistant Secretary of Rural Education on March 6, 2006. Also present at the meeting were G. Christine Chavez, Committee Deputy Director for Performance Audit; Dr. Robert Behrendt, Committee Education Performance Auditor; and Paul Aguilar, Committee Education Budget Analyst.

Review Team.

Robert Behrendt, Ed.D., Lead Auditor

G. Christine Chavez, Deputy Director of Performance Audit

Report Distribution. The report is intended for the information of the Office of the Governor, Public Education Department, Higher Education Department, Department of Finance and Administration, Office of the State Auditor, Legislative Education Study Committee, and Legislative Finance Committee. This restriction is not intended to limit the distribution of this report which is a matter of public record



G. Christine Chavez

Deputy Director for Performance Audit

Legislative Finance Committee

FINDINGS AND RECOMMENDATIONS

The New Mexico Indian Education Act, the Navajo Sovereignty In Education Act of 2005 and the No Child Left Behind (NCLB) Act. The New Mexico Indian Education Act's central purpose is to address the unique cultural educational needs of American Indian students and tribes and is a significant initiative that recognizes the current limitations of the State public educational system's capacity to serve Native students. Additionally, the Act calls for increased tribal involvement and control at the same time that PED is committed to implementing NCLB.

The leading initiative and example for other tribes/pueblos/nations in increased tribal involvement and control of education is the Navajo Sovereignty in Education Act of 2005. Enacted in the Fall of 2005 by the Navajo Nation Council giving the Navajo Nation's Department of Dine Education under the direction of the Navajo Nation Superintendent of Schools and the Navajo Nation Board of Education the authority to implement and enforce the laws of the Navajo Nation in each school operating within the Navajo Nation. The laws of the Navajo Nation with respect to cultural relevancy in curriculum, education in Navajo language, education in Navajo culture and social studies, and professional training for educators are:

Section 110. Curriculum

- A. The curriculum must be based on the needs of the students served, the cultural values and individual interests of Navajo students.
- B. The instructional program shall foster competence in both the English language and Navajo language skills and knowledge of both American and Navajo culture.
- C. The instructional program shall address character development based upon the Dine concept and shall be implemented at appropriate grade levels at all school serving the Navajo Nation.

Section 111. Education in Navajo language

- A. Instruction in the Navajo language shall be made available for all grade levels in all schools serving the Navajo Nation.
- B. Spoken or written Navajo language shall be used as a medium of instruction to teach academic content to Navajo speaking students who are not fully proficient in English, or who wish to improve their Navajo language proficiency by active use of the language as a learning tool.
- C. Intensive English language development shall be made available to serve students who have been identified, based upon a recognized language assessment, as "limited English proficient", with the exception of students enrolled in Navajo language immersion programs.

Section 112. Education in Navajo culture and social studies

Courses or course content that develops knowledge, understanding and respect for Navajo culture, history, civics and social studies shall be included in the curriculum of every school serving the Navajo Nation.

Section 113. Professional training for educators

- A. It is the responsibility of local schools and school districts serving the Navajo Nation to employ professional Navajo educators, to recruit those who are most qualified and competent to work with the Navajo student population, and to create incentives to improve staff performance.

- B. All schools and school districts serving the Navajo Nation shall develop appropriate Navajo culture awareness and sensitivity programs as an integral part of their in-service training programs for all personnel.

Additionally, the Navajo Sovereignty in Education Act of 2005 states that curricula must be standards based with instructional strategies that reflect scientific research. Interestingly, Navajo Nation schools are required to impose fines on parents or guardians for non-attendance by their children and have representation requirements for the Navajo Board of Education to insure that all segments of the education community have input.

A major obstacle in both the New Mexico Indian Education Act and the Navajo Sovereignty in Education Act calls for culturally relevant learning environments in New Mexico's public schools are the requirements of NCLB. A National Indian Education Association preliminary report, No Child Left Behind in Indian Country, raised the following issues based on the testimony of tribal officials.

- “Indian children are internalizing the (school) systems failures as their personal failure.
- Unsuitability of tests to measure education accomplishments given the cultural and linguistic purposes of some school programs and the cultural linguistic diversity of Native students.
- The No Child Left Behind Act has facilitated a back-door standardized curriculum which amounts to teaching to the test. As a result there is a backlash in Indian country which amounts to an aggressive, forced assimilation of our Indian children into a white middle class culture.
- In classrooms across the reservation there is a serious conflict of cultural values. Native languages and cultures are no longer taught because Indian children are drilled all day long in math and reading in preparation for the state standardized assessments.
- The standards and practices are not sound for the teaching of Indian children. Our children see and order their world differently from most other children, and as a result, demonstrate their knowledge in deepening and unique ways.
- The current push to meet the academic standards set out in the No Child Left Behind law rejects the need to provide culturally competent instructions.”

Recommendations.

- Adjust New Mexico content standards and tests to include language and cultural competencies relevant to Native American students for the purposes of determining adequate yearly progress.
- Expand the language of the Act to address differences between its purposes and the requirements of NCLB with reference to
 - balancing the NCLB emphasis on English reading/math standards with the inclusion of Native language and cultural standards;
 - complimenting traditional academic teaching/testing practices with those consistent with the learning styles of Native American children; and
 - expanding the focus on academic achievement with the broader development of the whole child in the Native cultural context.
- Increase tribal involvement and control over education by assisting school districts serving Navajo students in complying with the requirements of the Navajo Sovereignty in Education Act of 2005.

The American Indian Achievement Gap in New Mexico and Other States. Table 1 below compares the percent of American Indian and white students at or above proficiency for New Mexico, North Dakota, Montana, South Dakota, Alaska, and Arizona. These states were selected for comparison because they have the highest percentages of American Indian students.

Table 1. Percent of 8th Grade Students At or Above Basic Proficiency in Reading by State and Ethnicity as Measured by the 2005 National Assessment of Education Progress

State	Native American Reading Proficiency	Percent of All Students Limited English Proficient	Percent of All Students Free and Reduced Priced Lunch	Pupil to Teacher Ratio	2002 Native American Students as a Percentage of Total K-12	2002 Native American Students as a Percentage of Total Post Secondary
North Dakota	62%	2	28	13	8%	6%
Montana	57%	5	34	14	11%	8%
South Dakota	55%	4	31	14	11%	7%
Alaska	49%	15	27	17	26%	12%
Arizona	46%	15	45	21	7%	3%
New Mexico	49%	17	58	15	11%	8%

Sources: National Center for Education Statistics (NCES), National Assessment of Educational Progress , and LFC calculations

Data in Table 1 comparing New Mexico and Arizona with Montana, North Dakota, and South Dakota show that the other states have:

- Higher 8th grade Native American reading proficiency levels;
- Lower percentages of poverty and English language learners with slightly fewer students per teacher; and
- Similar percentages of Native American K-12 students.

Table 2. Postsecondary Completion Rates, Number and Percent of Total Native American Enrollment

State	Average Native American Completion Rates 2000-04	Two Year Campuses Including Tribal Colleges	Number of Tribal Colleges	Tribal College Students 2002	Total Post-Secondary Native American Students 2002	Percent of Native American Students Enrolled in Tribal Colleges 2002
North Dakota	16.7%	9	5	1,983	2,952	67%
Montana	13.4%	11	7	2,754	3,812	72%
South Dakota	11.2%	5	4	2,785	3,405	82%
New Mexico	12.1%	20	3	1,215	9,768	12%
Arizona	16.4%	20	1	1,822	13,568	13%
Alaska	8.7%	2	0	0	3,761	0%

Sources NCES and LFC calculations.

Data in Table 2 comparing New Mexico and Arizona with Montana, North Dakota, and South Dakota show that the other states have:

- Similar Native American post-secondary completion rates;
- More tribal colleges (16 to 4) and more Native American students (7,522 to 3,037) enrolled in them; and
- Fewer two year campuses (9 to 36).

Comparison data suggests that higher Native American achievement levels in Montana, North Dakota, and South Dakota, compared to New Mexico and Arizona, are associated with fewer children living in poverty and higher student English language proficiency. However, because the other states have far smaller Hispanic populations the percentage of Native American students living in poverty and having language proficiency needs is a greater proportion of their percentages in Table 1.

Tribal colleges in Montana, North Dakota, and South Dakota represent a larger portion of their states community college systems. While these tribal colleges do not appear lead to increased completion rates they may contribute to local economic development, increased educational aspirations in the tribal community, and a stronger relationship between education and tribal culture leading to higher K-12 achievement.

With fewer tribal colleges, New Mexico and Arizona rely on their many two-year campuses to provide access to Native American students. Arizona's relatively high Native American completion rate of 16 percent (Table 2) is associated with the lowest post-secondary participation rate of 3 percent (Table 1).

Recommendations.

- Provide expanded bilingual programs to increase Native language proficiency and improve the English acquisition and academic achievement of Native American students.
- Address the special needs of high poverty students with needed health/mental health services and supplemental educational programs and fewer students per teacher.
- Ensure culturally relevant instruction at the post-secondary level by developing closer affiliations between New Mexico two-year campuses and tribal communities to increase Native American attendance, retention and graduation rates by increasing the number of Native American governing board members.

Factors Contributing to the Native American Achievement Gap. The U.S. Commission on Civil Rights 2003 report entitled "Unmet Needs in Indian Country" reported the following:

"In exchange for land and in compensation for forced removal from their original homelands, the government promised through laws, treaties, and pledges to support and protect Native Americans. Funding for programs associated with those promises has fallen short and Native Americans still suffer higher rates of poverty, poor educational achievement, substandard housing, and higher rates of disease and illness. Native Americans continue to rank at or near the bottom of nearly every social, health and economic indicator...Native Americans living on tribal lands do not have access to the same services and programs available to other Americans, even though the government has a binding trust obligation to provide them."

The report went on to detail the factors present in the education of Native American students that are driven by poverty and discrimination.

- "Native American children inhabit the poorest segments of society in the United States, a situation that hinders their efforts to obtain an education.
- As a group, Native American students are not afforded educational opportunities equal to other students. They routinely face deteriorating school facilities, underpaid teachers, weak curricula, discriminatory treatment, outdated learning tools, and cultural isolation.
- Individuals working in Indian education are typically underpaid in comparison to colleagues teaching non-indigenous children. These individuals face numerous other obstacles, such as professional isolation and substandard physical facilities.
- The absence of state assistance for Indian education, lowers the quality of education afforded Native Americans relative to non-indigenous students and fosters a continuous violation of their civil rights.
- Dropout rates among Native American students are high because, among other reasons, their civil right and cultural identities are often at risk in the educational environment.

- Research shows that Native American students experience difficulty maintaining rapport with teachers and establishing relationships with other students; feelings of isolation; racist threats; and frequent suspension.
- Native Americans attributed high dropout rates to irrelevant curricula, discriminatory practices, and insensitive teachers and administrators.”

In New Mexico, an August 11, 2005 evaluation entitled “Public Education Department’s School Improvement Framework and Funding to Close the Achievement Gap” reported to the LFC that public school districts with large Native American populations have too many schools in need of improvement and too few resources to address the needs of their high poverty students. The report indicated that the lowest-performing/high poverty school district in comparison to the highest-achieving/ high poverty districts in New Mexico had the following characteristics:

- 180 percent higher rate of Native American and a 50 percent higher rate of English Language Learner students;
- 31 percent higher rate of school-age children living in poverty;
- 17 percent lower rate of adults with a high school diploma and a 50 percent lower rate of adults with four-year college degrees;
- medium income that is \$3,279 lower;
- \$1,629 per pupil less in state funds;
- \$569 per pupil less in direct instructional expenditures;
- \$283 per pupil less in direct instructional support expenditures;
- \$1,359 per pupil less in total expenditure; and
- 29 percent fewer teachers with master’s degrees.

Adding to the basic adequacy problems of these districts’ schools is the need to develop American Indian bilingual and culturally relevant instructional systems called for under the Act.

Recommendations.

- Ensure that the funding formula task force addresses the adequacy of at-risk unit values to assist high poverty Native American impacted school districts in meeting the purposes of the Act.
- Implement the recommendations of the August 11, 2005 LFC report on the Public Education Department Evaluation of School Improvement Framework and Funding to Close the Achievement Gap.
- Coordinate Native language maintenance and revitalization activities with program activities of the PED bilingual program and hire additional Native language speaking staff to ensure agency proficiency in each of the nine Native languages.
- Develop Native American cultural content standards on the same level as math, English, science and social studies for curriculum and test development.

Research on Improving Academic Performance Among Native American Children. There is an abundance of research and published studies on improving Indian education. Extensive reviews have been conducted by the New Mexico Research and Study Council, the Northwest, Southwest and the Mid-continent regional education labs.

Culturally Based Education Model. Dr. William G. Demmert, a Native American and leading educational researcher, in a presentation at the Montana Indian Education Summit on October 15,

2004, summarized research on improving education for Native American children. According to Demmert, culturally based education with strong Native language programs are key to improving Native American student performance. The critical elements of culturally based education include:

- Recognition and use of Native languages bilingually, or as a first or second language;
- Teaching that emphasizes traditional culture and adult-child interactions and values as currently practiced in the particular community;
- Teaching strategies that are compatible with traditional culture and provide students with opportunities to observe, practice and demonstrate skills;
- Curriculum based on traditional culture recognizing the importance of Native spirituality that uses the visual arts, legends, oral histories, and fundamental beliefs of the community;
- Strong Native community participation with parents, elders, and other community resources in the curriculum, planning, and operation of school/community activities; and
- Use of the social and political mores of the community.

Demmert enumerated three priorities for improving Native student academic performance.

1. “Build a strong language base among young children, in a cultural context that supports the community.
2. Build partnerships between university teacher education programs and schools with a focus on teacher competence in pedagogy, content area, and ability to work with the Native community served by the school.
3. Build a comprehensive school curriculum that is culturally based, that promotes language development in both the Native language and English early, and that provides the literacy base so critical to improved academic performance.”

Recommendations.

- Replace the Act’s vague terminology of “culturally relevant learning environment” and “educational systems” with the critical elements of the culturally based education model to provide a blueprint for implementation.
- Clearly define and set performance standards for the PED and the Indian education division to act as the responsible lead agencies for implementing the critical elements of the culturally based educational model in Native American impacted school districts in the language of the Act.
- Require colleges of education teacher preparation programs to incorporate the culturally based education model and provide accelerated teacher training, certification/endorsement, and professional development programs customized to the needs of each tribes/pueblos/nations and delivered in the regional quality centers proposed by PED throughout the State as a feature of the Act.
- Establish an Indian education teacher corps, along the lines of the Governor’s 2004 State of the State proposed teacher corps program, that recruits and develops highly qualified teachers to live and work in Native communities and the school districts that serve them as a feature of the Act.

Implementation of the Indian Education Act. The Indian Education Act became law in March of 2003. The deputy secretary of Indian education was appointed nine months later in December 2003 to oversee the Indian education division. A February 2004 LFC report on the Indian Education Act budget indicated that “the slow process of encumbering the funding for the Indian Education Act was

due to PED staff turnover. Delays also occurred in setting up the Northwest Regional Center leaving the Office of Indian Education with inadequate staff to implement the Indian Education Act.” The Northwest Regional center was not fully staffed until December of 2004. A previous LFC education audit of the PED School Improvement Framework (2005) also found staff turnover to be a problem forestalling program implementation

Each of New Mexico’s 22 tribes/pueblos/nations is a sovereign nation and the government to government requirements have made the planning and implementation of the Act complex and slow as evidenced by the pattern of expenditures of the Indian education fund from FY04 to FY06. Also, according to the LFC report, in 2004 the Indian education division was still “in the process of establishing an advisory council, developing an agreement on programmatic information between tribes, and establishing criteria for ensuring that native language bilingual programs are part of a school district’s professional development plans.”

Beyond the slow start of the Indian education division staffing and complexity of tribal pueblo government to government communications is the reality that the 23 school districts serving 97 percent of the Native American student population are focused on the state standards and tests which concentrate on core academic requirements of NCLB. For practical purposes there is little, if any, additional time, resources or incentives for school district administrators, school principals, and teachers to grapple with expanding the curriculum to make it culturally and linguistically relevant for Native American students. So while the Indian Education Act calls for relevancy there is no mechanism in the Act to ensure relevancy on a large scale.

Table 3 below presents Indian education fund data taken from the January 12, 2005 PED report entitled Indian Education Act: Updated Revenue and Expenditure Report. As Table 3 indicates the expenditures of Indian education fund have slowly progressed from FY04/05 to FY06 with \$3,471.7 of \$4,504.4 in FY06 expenditures being encumbrances.

**Table 3. Indian Education Appropriations, PED Budget and Indian Education Fund Expenditures
(Amounts in thousands)**

Year	Legislative Appropriations	Expenditures	Cumulative Remaining Funds
FY 04	\$2,000.0	\$84.7	\$1,915.3
FY 05	\$2,500.0	\$349.2	\$4,066.1
FY 06	\$2,500.0	\$4,504.4*	\$2,061.7
Total	\$7,000.0	\$4,938.3**	\$2,061.7

Source: PED, January 12, 2005

*FY06 expenditures included \$3,471.7 in encumbrances.

**These actual expenditures are included in Table 5 which also contains planned expenditures.

A PED report entitled, “Indian Education Act Action Plan and Status Report” dated December 12, 2005 detailed then current and planned expenditures from the Indian education fund. The implementation strategies and capacity of the Indian education division are reflected in the pattern of expenditures of the Indian education fund and the activities that are funded and not funded as seen in Tables 4 and 5.

**Table 4. Indian Education Fund Current and Planned Spending Categories and Recipients
(Amounts in thousands)**

Categories	Recipients	Amount	Percent
School district urban, school improvement, and exemplary programs awards	-5 urban school districts -9 districts-38 schools -15 schools	\$1,793.0	33.9%
University teacher education and professional development awards	-NMHU (\$599.7) 16 students -UNM (\$899.6) 55 students -NMSU (\$75.0)	\$1,574.3	29.7%
Northwest Indian education office	-IED/PED (10 school districts)	\$538.5	10.2%
Native language maintenance & revitalization	-9 tribes/pueblos/nations (\$499.0) -IED/PED (\$500.0)	\$999.9	18.9%
Curriculum & instructional materials	-UNM (\$126.4) -Museum of Indian Arts & Culture (\$75.0)	\$201.4	3.8%
EPSS Conference/Film	-Kesselman Jones (\$57.0) -Silver Bullet Productions (\$20.0)	\$77.0	1.4%
Research/Reporting	-UNM Research & Study Council (\$75.0) -Nichols & Associates (\$20.0)	\$95.0	1.8%
Indian Education Advisory Council (IEAC)	-PED/IEAC	\$16.1	.3%
		\$ 5,295.2	100%

Source: PED, December 12, 2005

- School districts and schools received 34 percent of the funds but the amounts were spread out over nine districts and 53 schools. This funding support has shifted primary responsibility for the development of culturally relevant curricula and educational systems away from PED's Indian education division to school districts and schools who already lack capacity to meet the needs of their high poverty student populations.
- University teacher education programs received 30 percent of the funds but few (71) new and upgraded teachers are in the pipeline.
- The Northwest Indian education office serves 10 school districts with over half the Native American population in the state with four staff members who are largely consumed by monitoring the activities of the many area schools receiving Indian education funds and insufficient staffing to provide leadership and technical assistance.
- The small Indian education advisory council funding allocation reflects its lack of oversight management activity, responsibility, inadequate tribal/pueblo/nation membership, and low participation level. The Indian education advisory council does not have adequate representation or participation from all 22 tribes, urban Indian leaders and education stakeholders to oversee the implementation of the Act.

Table 5 illustrates that the language and strategy for implementation of the Act shifts most responsibility from the Indian education division and PED to school district efforts and outside contractors. Instead of providing a blueprint and technical assistance to school districts, PED is using a shotgun funding allocation approach hoping school districts and outside contractors will come up with something. A similar pattern of relying on school district efforts and outside contractors was evident in the Priority School Bureau and PED's approach to implementing the agency's school improvement strategy. The 14 numbered activities are taken from PED's revenue and expenditure report referenced below Table 5.

Table 5. Indian Education Division Activities and Fund Allocations and Non-Allocations

Funds Allocated To:	Funds Not Allocated To:
1. Provide assistance to school districts and tribes to meet the educational needs of American Indian students.	2. Provide assistance to school districts and tribes in the planning, development, implementation, and evaluation of curricula in native languages, culture and history Designed for American Indian Students.
4. Provide assistance to school districts and tribes to develop curricula and instructional materials in native languages, culture and history in conjunction with native practitioners and tribal elders.	3. Implement a culturally relevant curriculum to provide American Indian students in K-6 preparation for pre-advanced and advanced placement coursework in grades 7 -12.
5. Establish an Indian education advisory council.	8. Require school districts to obtain a signature of approval by the tribal governments or designee verifying that the tribe agrees to the Indian education policies and procedures (IPP's) pursuant to federal requirements.
6. Enter into agreements with tribes or authorized tribal educational entities to share native language maintenance and revitalization program information and to coordinate technical assistance for public schools that serve American Indian students.	11. Ensure native language bilingual programs are part of a school district's professional development plan.
7. Establish and maintain a northwest Indian education office to monitor the progress of American Indian students and coordinate technical assistance at the public schools that serve American Indian students.	12. Develop a plan to establish a post-secondary investment system to which parents, tribes and state may contribute.
9. Establish, develop and implement support services to increase the number of American Indian teachers and principals and provide continued professional development for educational assistants, teachers and principals serving American Indian students.	14. School District Reports
10. Develop curricula to provide instruction in tribal history and government in school districts throughout the state.	
13. Statewide Indian Education Status Report	

Source: PED, January 6, 2005, Indian Education Act: Updated Revenue and Expenditure Report

Recommendations.

- Provide an incentive to school districts to implement culturally relevant curricula through the development and testing of culturally based educational competencies and as a requirement of the accreditation process.
- Increase the capacity of the PED and Indian education division to provide more technical assistance and interventions to tribal education departments, schools districts and schools in implementing culturally based education by using the money being given to school districts, schools and contractors to hire additional PED staff with expertise in tribal/pueblo culture and education.
- Make tribal/pueblo education departments Local Education Agencies eligible for state funding as a foundational step in increasing tribal capacity, involvement and control over the education of their students.
- Aggressively implement more innovative teacher education programs to get more Native and certified culturally based educators in the pipeline using the tribal college and the regional teacher education/training quality center approaches. Make the establishment of tribal colleges an economic development priority and the natural vehicle for language and cultural preservation, Indian education research and Native teacher education.
- Increase tribal/pueblo involvement and control over education by expanding Indian education advisory council funding, membership/participation, and authority. Expand the language of the Act to provide Indian education advisory council membership requirements that include all tribes/pueblos/nations and the establishment of a constitution and by-laws clearly defining the role and authority that New Mexico tribes/pueblos/nations desire in overseeing the implementation of the Act.

Montana “Indian Education Act for All” Strategy/Model. In 1999, the Montana Legislature passed into law the “Indian Education for All Act” (MCA 20-1-501) calling for all students to be provided an opportunity to learn about Native American culture, for all school personnel to have an understanding of Indian tribes to relate to Indian students and parents, and for every educational agency to work with Montana tribes. The Montana strategy rests on the assumption that their effort is dependent on the entire educational community not just schools with high populations of American Indians. Components of the Montana strategy include:

- References to Indian Education in accreditation, program and content standards in the law calling for inclusion of American Indian culture in all program area standards and content and performance standards. Each school district will have a policy that incorporates American Indian culture into the district educational goals. Curricula development will take into account differences among learners providing books and materials that reflect authentic portrayals of American Indian culture.
- A summit held in October 2004 for the purpose of seeking input on implementing Indian Education for All and to close the American Indian student achievement gap. Specific recommendations from the two day Summit were presented to the State Superintendent of Public Instruction calling for:
 - reduction of the dropout rate for Indian students to the level of non-Indian students; and
 - increase the graduation/completion rate of Indian students to 80 percent.
- Montana Advisory Council on Indian Education Constitution and By-Laws clearly establishes the purposes, goals and operational procedures of the council to oversee implementation of the initiative. All eight Montana tribes are invited to select a tribal representative to be appointed to the council by the Board of Public Education and the Superintendent of Public Instruction.
- Implementation plan framework for Indian Education for All consisting of a planning phase ending in June, 2005 and two years of implementation activities culminating in June, 2007. By the start of the next school year, with the distribution of a K-12 curriculum binder, scope and sequence curriculum, model lessons, supplemental resource materials and resource guide. The Office of public instruction staff will:
 - monitor all schools implementation and evaluate effectiveness of curriculum
 - collect implementation data through surveys and site visits; and
 - evaluate implementation activities of schools for accreditation purposes.

Recommendations.

- Expand the language of the New Mexico Indian Education Act to include all New Mexico students in receiving instruction in Native American culture throughout the curriculum.
- Set targets to improve Native American student dropout and graduation rates.
- Require the development of an implementation plan framework overseen by the Indian education advisory council and carried out by the Indian education division and PED as a feature of the Act.
- Provide for the development and dissemination of a New Mexico Indian education K-12 curriculum binder, scope and sequence curriculum, model lessons, supplemental resource materials and resource guide by PED in the Act.

New Mexico Indian Education Summit. The New Mexico Indian Education Summit was held on December 19, 2005. Two and a half years after the passage of the Act in 2003. The Summit provided New Mexico tribes/pueblos/nations with a one day forum to present their concerns but because of time

constraints no priorities were established or actions planned. At the Summit the governor announced his request for a \$500,000 study on the status of Indian education in New Mexico.

A report on the Summit is being compiled through a cooperative effort of the Higher Education Department, the PED and the Indian Affairs Department. The report will derive recommendations from tribal/pueblos/nations Summit presentations and position papers. The report is intended to be distributed on February 7, Indian Day at the 2006 legislative session but was not.

Recommendation. Hold another New Mexico Indian Education Summit over two days to facilitate the development of the New Mexico tribal/pueblo/nation perspective on implementation of the Act and increased involvement and control of education.

Adequacy of Native American Representation in the Classroom, on School Boards, and in PED. The following statistics taken from PED and Legislative Council Services point to under representation of Native Americans in teaching, school district oversight, state government employment and the political process in New Mexico.

- 2.5 percent of teachers in New Mexico are Native American while 11 percent of the student population is Native American.
- 13 of the 23 school districts serving 97 percent of the Native American students have no Native American school board members.
- 21 percent of school board members in the 23 school districts are Native American.
- 4.4 percent of New Mexico legislator are Native American while 11 percent of New Mexicans are Native American.

Recommendation. Form an Indian Affairs Department Taskforce to make policy recommendations to the governor and legislature regarding these under representation issues and there effect on the delivery of state agency services to tribes and pueblos.

House Memorial 3 and Nichols and Associates Report on Elevating the Status of Indian Education Division. House Memorial 3 was adopted by the 2005 New Mexico legislature calling for the PED to analyze means of elevating the status of the Indian education division through a joint report prepared by the secretary of education and the deputy superintendent of Indian education to be presented to the legislative Indian affairs committee at its October 2005 meeting. Such a report was not prepared by the PED but rather contracted out to Richard Nichols and Associates with a January 2006 due date. LFC review staff has requested a copy of the report draft but it has not been provided.

House Memorial 3 identifies a number of Indian education concerns in its language that are key issues with respect to implementation of the 2003 Indian Education Act. The concerns include:

- Government-to-government agreements with sovereign Indian nations;
- A complex of federal education programs available only to Indian students;
- The dropout and poverty rates for Indian children in New Mexico schools is the highest;
- The number of failing and probationary schools on New Mexico's Indian lands is the highest;
- Meeting the performance requirements of NCLB will be difficult for New Mexico's schools with high concentrations of Indian children without focused programs and resources;
- Recognition of the importance of Native American languages should be seen as New Mexican rather than "foreign"; and

- The problems of teachers of Indian children in New Mexico schools are in many ways distinct from those of other teachers.

The review has found no evidence that the PED, the Indian education division and the Indian advisory council working together have developed an implementation plan to ensure implementation of the Act in terms of:

- The Indian education divisions organization and staffing to serve the needs of 22 tribes/pueblos/nations, 9 native languages and 23 school districts; along with
- PED overall internal organization and functional relationships with the Indian education division.

The House Memorial 3 directive to analyze means to elevate the status of the Indian education division with the purpose of enhancing its authority, funding, scope, staffing, and responsibilities is critical to the implementation of the Indian education act. However, the assumption that the enhancement of the Indian education division's capacity to implement the Act should take place within the PED also needs to be analyzed. Many of the findings of this report would seem to indicate that:

- The rank of the assistant secretary of Indian Education may not be appropriate for the complexity and scope of the Act's implementation.
- The Indian education division may be at cross purposes with the PED's commitment to the implementation of NCLB and statutory responsibility to serve the needs of all 89 school districts in New Mexico.
- The successful implementation of the Act is interdependent with the goals of the New Mexico Indian Affairs Department and the economic development of the tribes.

Governor's Request For a Study on the Status of Indian Education in New Mexico. "The major studies on Indian Education, beginning with the Merriam Report conducted in the early 1900s to more recently the Indian Nations at Risk and the Presidential Executive Order of 2004, have had a national focus, that may or may not address local tribal concerns. There has been no comprehensive study of Indian Education focused on New Mexico education issues, students and tribes.

We have an Indian Education Act; however, much about what is known about Indian education is built on old assumptions; assumptions that often limit attempts to address the real issues for Native communities and their children. For example, it is just of late that the education community is beginning to understand the impact of historical trauma in relation to children who were educated in boarding schools. Now as adults many of them are having trouble relating and parenting their children and they have no context for what it means to be involved in their children's education.

On general standardized assessments, Native Americans are the lowest performing group when data is disaggregated by ethnicity. This covers (virtually) all subjects and grades tested.

The President's Executive Order on American Indian Education (2004) states that NCLB will be implemented taking into account the language and culture of these children yet, the US Department of Education has done nothing to provide guidance in its implementation.

This study could have the potential to redefine the Bureau of Indian Affairs' role in the education of Native American students and redefine its relationship to the public education system.

Native American students are far under-represented in attainment of higher education.

The proposed study is:

- A blueprint for change that looks at the educational system from a Native American perspective;
- To involve New Mexico's tribal leaders, researchers educators and communities throughout the process unlike other studies conducted by non-Indian researchers, or federal and state agencies;
- To identify and assess the factors which influence the gap in academic achievement of Indian students and their peers in NM schools and communities;
- To identify strategies and changes in educational practice necessary to improving educational outcomes for Indian children from Pre-K through post-secondary education; and
- An opportunity to develop a process that will focus on the strengths and resiliency of Native American students rather than on the deficits as is now common practice.

Funding has not been appropriated for this specific purpose. FY06 funding request for this study include:

- Non-recurring: \$250,000; and
- Recurring: \$250,000 (IEA)"

Recommendation. Develop a strategy and focus resources on implementing the Indian Education Act, based on the extensive research already conducted on culturally based education for Native American students, rather than conducting another study.